



**H.B. 657**

126th General Assembly  
(As Introduced)

Rep. Driehaus

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**BILL SUMMARY**

- Provides that the penalties for felonious assault, aggravated assault, and assault committed against a participant in a citizens on patrol program are the same as the penalties for felonious assault, aggravated assault, and assault committed against a peace officer.

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**CONTENT AND OPERATION**

**Penalty for committing felonious assault, aggravated assault, or assault against a participant in a citizens on patrol program**

Under current law, if a person commits felonious assault, aggravated assault, or assault<sup>1</sup> and the victim of the assault is a peace officer the penalty for the offense is elevated: in the case of felonious assault the penalty is raised from a felony of the second degree to a felony of the first degree; in the case of aggravated assault, the penalty is raised from a felony of the fourth degree to a felony of the third degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the peace officer victim suffers serious physical harm; and in the case of assault, the penalty is raised from a misdemeanor of the first degree to a felony of the fourth degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the fourth degree if the peace officer victim suffers serious physical harm (R.C. 2903.11(D), 2903.12(B), and 2903.13(C)(3) and (4)).

The bill imposes the same criminal penalties for assaulting a "participant" in a "citizens on patrol program" (defined in "Definitions," below) as are imposed for assaulting a peace officer. Thus, felonious assault committed against a participant in a citizens on patrol program is a felony of the first degree.

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<sup>1</sup> See "Background: felonious assault, aggravated assault, and assault," below for an explanation of these offenses.

Aggravated assault committed against a participant in a citizens on patrol program is a felony of the third degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the peace officer victim suffers serious physical harm. Assault committed against a participant in a citizens on patrol program is a felony of the fourth degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the peace officer victim suffers serious physical harm. (R.C. 2903.11(D), 2903.12(B), and 2903.13(C)(3) and (4).)

### **Definitions**

The bill defines "citizens on patrol program" as meaning a group of residents of a neighborhood that is formed in affiliation or association with a "law enforcement agency" to observe activities within the neighborhood and to report the residents' observations to the law enforcement agency and to take other actions intended to reduce crime in the neighborhood. "Citizens on patrol program" includes a neighborhood crime watch program receiving funds from a board of township trustees pursuant to R.C. 505.702. (R.C. 2903.11(E)(4) and referenced in R.C. 2903.12(C)(1) and 2903.13(D)(10).)

"Participant" is defined by the bill as meaning a person engaged in or traveling to or from a meeting, neighborhood patrol, or other scheduled activity of a citizens on patrol program (R.C. 2903.11(E)(5) and referenced in R.C. 2903.12(C)(1) and 2903.13(D)(10)).

Finally, the bill defines "law enforcement agency" as having the same meaning as in R.C. 109.573 of the Revised Code while also including the office of any village marshal, any police force of a metropolitan housing authority, any state university law enforcement department, and the office of any township constable (R.C. 2903.11(E)(6) and referenced in R.C. 2903.12(C)(1) and 2903.13(D)(10)).<sup>2</sup>

### **Background: felonious assault, aggravated assault, and assault**

#### **Felonious assault**

A person commits the offense of felonious assault if a person knowingly does either of the following (R.C. 2903.11(A)):

- (1) Causes serious physical harm to another or to another's unborn;

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<sup>2</sup> R.C. 109.573(A)(8) defines "law enforcement agency" as meaning a police department, the office of a sheriff, the state highway patrol, a county prosecuting attorney, or a federal, state, or local governmental body that enforces criminal laws and that has employees who have a statutory power of arrest.

(2) Causes or attempts to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

A person also commits the offense of felonious assault if the person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, knowingly does any of the following (R.C. 2903.11(B)):

(1) Engages in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;

(2) Engages in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;

(3) Engages in sexual conduct with a person under 18 years of age who is not the spouse of the offender.

The penalty for felonious assault is a felony of the second degree unless the victim is a peace officer, in which case felonious assault is a felony of the first degree (R.C. 2903.11(D)).

### **Aggravated assault**

A person commits the offense of aggravated assault if the person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, knowingly does either of the following (R.C. 2903.12(A)):

(1) Causes serious physical harm to another or to another's unborn;

(2) Causes or attempts to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

The penalty for aggravated assault is a felony of the fourth degree unless the victim is a peace officer, in which case felonious assault is a felony of the third degree, and the court must impose a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the peace officer victim suffers serious physical harm (R.C. 2903.12(B)).

**Assault**

A person commits the offense of assault if the person either knowingly causes or attempts to cause physical harm to another or to another's unborn or recklessly causes serious physical harm to another or to another's unborn. The penalty for assault ranges from a misdemeanor of the first degree to a felony of the third degree depending on where the offense was committed and the status of the victim. (R.C. 2903.13.)

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**HISTORY**

ACTION	DATE
Introduced	09-14-06

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